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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/046,482	01/16/2002	Tatsuo Higuchi	501.41084X00	3567
24956	7590	03/07/2005	EXAMINER	
MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C. 1800 DIAGONAL ROAD SUITE 370 ALEXANDRIA, VA 22314			HOLLAR, ANDREA B	
		ART UNIT		PAPER NUMBER
				2142

DATE MAILED: 03/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/046,482	HIGUCHI ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Andrea Hollar	2142	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 16 January 2002.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-11 is/are rejected.
- 7) Claim(s) 4 and 11 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 16 January 2002 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>1/16/02</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

**DETAILED ACTION**

***Drawings***

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: S5, S4', S23', S24', and S121. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Figure 17 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

The disclosure is objected to because of the following informalities: in paragraph 63, line 3, it is believed and will be assumed that "in" is a typographical error and should be "1n".

Appropriate correction is required.

The disclosure is objected to because of the following informalities: in paragraph 78, line 1, it is believed and will be assumed that "ia" is a typographical error and should be "1a".

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Appropriate correction is required.

The disclosure is objected to because of the following informalities: in paragraph 87, line 4, Step S2G is recited but does not appear in the drawings.

Appropriate correction is required.

The disclosure is objected to because of the following informalities: in paragraph 124, line 1, and in several subsequent paragraphs the reference number 4' is recited but does not appear in the drawings.

Appropriate correction is required.

The disclosure is objected to because of the following informalities: in paragraph 142, line 1, the reference number 1G is recited but does not appear in the drawings.

Appropriate correction is required.

The disclosure is objected to because of the following informalities: in paragraph 147, line 3 and paragraph 148, line 1, the reference number S6' is recited but does not appear in the drawings.

Appropriate correction is required.

The disclosure is objected to because of the following informalities: in paragraph 154, line 6, the reference number Si3' is recited but does not appear in the drawings.

Appropriate correction is required.

The disclosure is objected to because of the following informalities: in paragraph 167, reference number S122 is recited but does not appear in the drawings.

Appropriate correction is required.

### ***Claim Objections***

Claim 4 is objected to because of the following informalities: "the pertinent logical partition" lacks antecedence. Appropriate correction is required.

Claim 11 is objected to because of the following informalities: "the computer" lacks antecedence. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4 and 7-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Downs.

With respect to claim 1, Downs discloses a computer resource marketing system comprising:

a computer (col. 3, lines 25-27) with a logical partition control means for dividing resources of the computer into a plurality of logical partitions and designating at least one logical partition to be as lendable (col. 6, lines 55-58);

a client system that requests use of the resources of the computer and submits processing to the computer (col. 5, lines 12-15; col. 5, line 32);

a resource database storing lending conditions and certification information of the logical partitions of the computer (col. 4, lines 34-41; col. 6, lines 39-45); and

a management means that searches the resource database according to use requirements defined by the client system, finds a logical partition that meets the use requirements, notifies the client system of the logical partition found by the search, and grants the client system permission to use the logical partition (fig. 6, items 146, 148, 156, 160, 164, and 166).

With respect to claim 2, Downs discloses that the logical partition control means has allocation information indicating resources that have been allocated to the logical partitions of the computer (col. 4, lines 39-41), and comprises an altering means for changing logical partitions according to the allocation information (col. 5, lines 48-50), and a means for disabling change of the logical partition while the client is using it (fig. 6, item 164).

With respect to claim 3, Downs discloses:

the resource database has allocation information that indicates resources allocated to the logical partitions of the computer (col. 4, lines 39-41);

the logical partition control means has a alteration means for changing logical partitions according to the allocation information of the resource database (col. 5, lines 48-50); and

the management means changes the allocation information according to the use requirements defined by the client (fig. 6, items 146, 148, 156, 160, 164, and 166).

With respect to claim 4, Downs discloses that the management means disables change of the allocation information of the resource database corresponding to the pertinent logical partition while the logical partition is being used (fig. 6, item 164).

With respect to claim 7, Downs discloses a billing information computing means for computing billing information according to use of the logical partitions by the client system (col. 4, lines 42-46).

With respect to claim 8, Downs discloses a computer resource marketing method for a computer system configured by interconnection of:

at least one computer having resources divided into a plurality of logical partitions, at least one of the logical partitions being available for lending (col. 3, lines 25-27; col. 6, lines 55-58);

a client system that requests use of the resources of the computer and submits processing to the computer (col. 5, lines 12-15; col. 5, line 32);

a resource database storing lending conditions and certification information of the logical partitions for each said computer (col. 4, lines 34-41; col. 6, lines 39-45); and

a management means for searching the resource database according to use requirements defined by the client system (fig. 6, items 156, 160, 164, and 166);

the method comprising steps of:

searching the resource database, on reception of use requirements from the client system, for a computer with lending conditions that meet the use requirements (fig. 6, item 156);

notifying the client system, based on the search result, of certification information of a computer that meets the use requirements (fig. 6, items 160, 164, and 166);

submitting processing from the client system to a logical partition of the computer of which the client system was notified (fig. 6, item 166); and

disabling change of allocation information associated with said logical partition at least while said logical partition is being used by the client system (fig. 6, item 176).

With respect to claim 9, Downs discloses a step of changing the allocation information after the step of searching for a logical partition according to use requirements received from the client system (fig. 6, item 170), and a step of changing the logical partition according to the allocation information (fig. 6, item 176).

With respect to claim 10, Downs discloses a step of computing billing information for the computer that has been used by the client system (col. 4, lines 42-46).

With respect to claim 11, Downs discloses a computer resource-marketing system comprising:  
a resource database that stores information about logical partitions that have been set as resources of the computer (col. 4, lines 34-41; col. 6, lines 39-45);

a client system that can request use of resources of the computer and submit processing to the computer (col. 5, lines 12-15; col. 5, line 32); and a management server that searches the resource database based on use requirements defined by the client system and notifies the client system of an available logical partition (fig. 6, items 146, 148, 156, 160, 164, and 166).

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Downs in view of Day.

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With respect to claim 5, Downs does not expressly disclose that different operating systems are bootable in the plurality of logical partitions.

With respect to claim 6, Downs does not expressly disclose that the operating systems are stored in a file server linked to the computer, and the logical partition control means causes one of the operating systems meeting the defined use requirements to be booted in the logical partitions used by the client system.

Day teaches that a computer can download and run an operating system from a server based on a set of requirements (par. 66, lines 9-20).

Downs and Day are analogous art because they are both from the same field of endeavor of network management.

At the time of invention it would have been obvious to modify Downs's system by allowing the individual computing resources to download and run an operating system that matches the requirements set forth by the particular task. The motivation for doing so would have been to provide Downs's computing resource with an operating system that is appropriate for the current task (par. 66, lines 12-13).

Therefore it would have been obvious to combine Day with Downs for the benefit of having an appropriate operating system to obtain the invention as specified in claims 5 and 6.

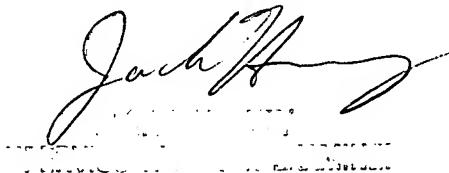
***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea Hollar whose telephone number is 571-272-5862. The examiner can normally be reached on 8:30-5:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Harvey can be reached on 571-272-3896. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ABH

A handwritten signature in black ink, appearing to read "Jack H.", is positioned above a small, rectangular, illegible stamp or official mark.